

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:20-cv-00539

Rodrick Elliott,
Plaintiff,

v.

Maxey Cerliano,
Defendant.

ORDER

Plaintiff Rodrick Elliott, a prisoner in the Texas prison system proceeding pro se and *in forma pauperis*, filed this lawsuit seeking injunctive relief against defendant Maxey Cerliano pursuant to 42 U.S.C. § 1983. This case was referred to United States Magistrate Judge K. Nicole Mitchell. On August 23, 2022, the magistrate judge issued a report recommending that plaintiff's lawsuit be dismissed for plaintiff's failure to prosecute his own case. Doc. 11. A copy of this report was sent to plaintiff at his last-known address with an acknowledgement card. The docket reflects that the report was returned as undeliverable. Doc. 12. To date, however, no objections have been filed.

When there have been no timely objections to a magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report and being satisfied that it contains no clear error, the court accepts its findings and recommendation.

Plaintiff's lawsuit is dismissed for plaintiff's failure to prosecute his case. The statute of limitations is suspended in this case for 45 days from the date of final judgment. *See Campbell v. Wilkinson*, 988 F.3d 798, 801 n.1 (5th Cir. 2021) (explaining that "[w]here further litigation of [a] claim will be time-barred, a dismissal without prejudice is no less severe a sanction than a

dismissal with prejudice, and the same standard of review is used.”). All motions pending in this civil action are denied.

So ordered by the court on September 19, 2022.

A handwritten signature in black ink, appearing to read "J. Campbell Barker", is written over a horizontal line.

J. CAMPBELL BARKER
United States District Judge